

[Complete list of parties represented may be found on signature page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

IN RE: EDWARD H. OKUN INTERNAL
REVENUE SERVICE § 1031 TAX
DEFERRED EXCHANGE LITIGATION

Case No. 5:09-md-02028-JW

ANITA HUNTER, et al.

Case No.: 09-cv-02079 JW

Plaintiffs,

VS.

Assigned to Hon. James Ware

CITIBANK, N.A., et al.

Defendants

**STIPULATION AND [PROPOSED] *Proposed*
ORDER TO CONTINUE WAVE III
PRELIMINARY HEARING FROM
FEBRUARY 7, 2011 TO FEBRUARY 28,
2011**

WHEREAS, the Wave I and Wave II Settlements totaling \$106,447,500 in the above captioned actions have been fully approved by the Court;

WHEREAS, the Plaintiffs and the Trustee in the Okun Bankruptcy proceedings pending before Judge Glenn in the Southern District of New York [*In Re: The 1031 Tax Group, LLC, et al.*, Case No. 07-11448 (MG)] have agreed to settle with several additional Defendants in Wave III, and they are: (i) *Hunter II* Defendant Citibank, N.A. (“Citibank”); (ii) *Hunter II* Defendants Kutak Rock LLP and Joseph O. Kavan (the “Kutak Defendants”); (iii) *Hunter II* Defendants Foley & Lardner, LLP and Steven Burr (the “Foley Defendants”); (iv) *Hunter II* Defendants Roy S. MacDowell, Jr. and the Boulder Entity Defendants (collectively the “Boulder Defendants”); and, (v) *Hunter II* Defendant Jorden Burt, LLP and *Hunter I* Defendant Richard Simring (“Jorden Burt” and “Simring”).

1 WHEREAS, the Wave III Preliminary Approval hearing is presently scheduled for
2 February 7, 2011 and the Court has ordered the Wave III Preliminary Approval motion to be
3 filed by this Friday, January 21, 2011;

4 WHEREAS, the Plaintiffs and the Trustee, on the one hand, and certain Wave III
5 settling Defendants, on the other hand, are working to finalize and execute their settlement
6 documentation as expeditiously as practicable, but that process may not be completed by
7 February 7, 2011;

8 WHEREAS, the Wave III settling parties agree that continuing the Wave III Preliminary
9 Approval hearing by three weeks will allow the settlement documentation to be completed;

10 WHEREAS, Plaintiffs' counsel has been informed by the Court staff that the hearing
11 could occur on February 28, 2011;

12 NOW THEREFORE, based on the foregoing, the Wave III Settling Parties, and their
13 undersigned Counsel hereby AGREE and STIPULATE that the Wave III Preliminary Approval
14 hearing presently scheduled for February 7, 2011, should be continued to February 28, 2011,
15 and, that the Wave III Preliminary Approval Motion should be filed on February 15, 2011.

16 **IT IS SO STIPULATED.**

17 Dated: January 19, 2011

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27 the Class*

1 Dated: January 19, 2011

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1
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19 Dated: January 19, 2011
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Attorneys for Defendant Citibank, N.A.

IT IS SO ORDERED.

Dated: January 20, 2011

HON. JAMES WARE

20 I, Michael P. Denver am the ECF User whose ID and password are being used to file this
21 **STIPULATION AND [PROPOSED] ORDER TO CONTINUE WAVE III**
22 **PRELIMINARY HEARING FROM FEBRUARY 7, 2011 TO FEBRUARY 28, 2011.** In
23 compliance with General Order 45, X.B., I hereby attest that counsel whose e-signatures appear
24 on the foregoing signature pages have concurred in this filing.

/s/